



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Leatherman, et al.
Serial No. 09/500,094
Filed: 02/08/2000
For: INTERNET CAPABLE BROWSER DISPENSER ARCHITECTURE

Examiner: Wasylchak, S. R.
Art Unit: 3624

#12
4/11/03

Commissioner for Patents
Washington, D.C. 20231

Sir:

**PETITION UNDER 37 C.F.R. § 1.47 FOR PATENT OFFICE TO ACCEPT RULE 1.131
DECLARATION FROM LESS THAN ALL INVENTORS**

This Petition is being filed in conjunction with a Request for Continued Examination (RCE) filed on March 18, 2003 for the Patent Office to accept a Rule 1.131 declaration signed by only one of the two inventors (Mr. Royal) of the present application, because the other inventor (Mr. Leatherman) refuses to sign a declaration.

The Applicant encloses a Credit Card Form in the amount of \$130.00, the required fee under 37 C.F.R. § 1.17(i). If any fees are required in association with this response, the Director is hereby authorized to charge them to Deposit Account 50-1732, and consider this a petition therefor.

GROUND FOR PETITION UNDER 35 C.F.R. § 1.47

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Facts

1. Dean Leatherman and Bill Royal are the name inventors on the present application.
2. William Royal is presently employed by the assignee of the present application, Gilbarco Inc.
3. Dean Leatherman used to be employed by the assignee of the present application, Gilbarco Inc. until 2001 and was under a duty to assign inventions while employed at Gilbarco Inc. to Gilbarco Inc.

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4. Mr. Leatherman's last known address is 321 Salmon Road, Ramona California, 92065.
8. The attorney of record prepared a Rule 1.131 declaration for Mr. Royal and Mr. Leatherman to execute in connection with the RCE on February 20, 2003 (hereinafter "Declaration") (attached as exhibit 1 to Mr. Royal).
9. On February 20 2003, Mr. Royal executed and return the signed the Declaration to the attorney of record (filed with accompanying RCE).
10. As of March 17, 2003, the attorney of record had not received a return email or communication by Mr. Leatherman.
11. Applicant has had to file a Petition Under 37 C.F.R. § 1.47 with respect to Mr. Leatherman in the past on a related case (Serial No. 09/828,050) relating to the same underlying invention disclosure and facts (see petition dated January 13, 2003 in Serial No. 09/828,050).
12. On March 17, 2003, the attorney of record sent a follow up email to Mr. Leatherman regarding execution Declaration (attached as exhibit 2).
14. As of the date of this Petition, March 18, 2003, the attorney of record has not received any communication from Mr. Leatherman and can only reasonably assume that Mr. Leatherman will not sign the Declaration.
15. Mr. Leatherman has never indicated in this previous correspondence with the attorney of record that the Declaration is inaccurate in any manner.

Request for Relief

Applicant hereby request that the Patent Office accept the Declaration signed by only one of the two inventors Mr. Royal, and Mr. Leatherman's refusal to sign the Declaration as

sufficient to swear behind the Tandem Article and the Microsoft Press Computer Dictionary references used to reject claims in the present application.

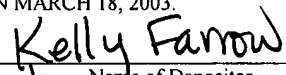
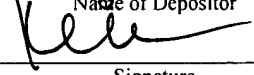
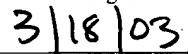
Respectfully submitted,

WITHROW & TERRANOVA, P.L.L.C.

By: 

Steven N. Terranova
Registration No. 43,185
P.O. Box 1287
Cary, NC 27512
Telephone: (919) 654-4520

Date: March 18, 2003
Attorney Docket: 2400-505

CERTIFICATE OF MAILING	
I HEREBY CERTIFY THAT THIS DOCUMENT IS BEING DEPOSITED WITH THE UNITED STATES POSTAL SERVICE AS FIRST-CLASS MAIL, IN AN ENVELOPE ADDRESSED TO: COMMISSIONER FOR PATENTS, BOX RCE, WASHINGTON, D.C. 20231, ON MARCH 18, 2003.	
 _____ Name of Depositor	
 _____ Signature	
 _____ Date of Signature	

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EXHIBIT 1

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Leatherman *et al.*

Serial No. 09/500,094

Filed: February 8, 2000

For: **INTERNET CAPABLE BROWSER DISPENSER ARCHITECTURE**

Examiner: Wasylchak, S. R.

Art Unit: 3651

Commissioner for Patents

Washington, D.C. 20231

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Sir:

DECLARATION UNDER RULE 37 CFR 1.131

1. We hereby declare that we are joint inventors of the invention disclosed and claimed in U.S. Patent Number 6,052,629, entitled **INTERNET CAPABLE BROWSER DISPENSER ARCHITECTURE**, filed July 18, 1997.
2. We are further the joint inventors of the above-identified application, which is a divisional application of U.S. Patent 6,052,629.
3. Prior to October 21, 1996, we were in possession of the invention underlying the present application present in our invention disclosure document, Disclosure Number GIL-96-21 (hereinafter "Invention Disclosure") attached as Exhibit A.
4. The Invention Disclosure document further indicates that our invention in the Invention Disclosure was conceived prior to October 21, 1996.
5. The claims pending in the present application 29-35 and 49-55 claim an invention that is disclosed in our Invention Disclosure.
6. The Invention Disclosure clearly illustrates the fully developed concept of the Present Invention to a degree sufficient for one of ordinary skill in the art to practice the Present Invention.
7. Further, the Invention Disclosure indicates that the concept began development in October 1996.

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8. We considered additional design details in an effort to determine what would be necessary to reduce our invention in the Invention Disclosure to practice between October 1996 and December 1996.
9. After November 1996, a copy of the invention disclosure was given to Mr. Bob Day, a Patent Engineer in the legal department at Gilbarco, to schedule for presentation to the Gilbarco Patent Committee.
10. After December 1996, Mr. Steven Terranova, replaced Mr. Bob Day as a Patent Engineer at Gilbarco and Mr. Terranova scheduled our Invention Disclosure for a presentation to the Gilbarco Patent Committee in January 1997.
11. The Gilbarco Patent Committee met in January 1997, and we presented our invention to the Gilbarco Patent Committee.
12. The Gilbarco Patent Committee approved the Invention Disclosure to be approved for preparing a patent application for filing at the U.S. Patent & Trademark Office in January 1997.
13. It is our understanding that Mr. Terranova sent a draft copy of the Invention Disclosure to the law firm of Rhodes, Coats, & Bennett to docket and perform a patent search on February 3, 1997.
14. Between February 3, 1997 and February 27, 1997, it is our understanding that the law firm of Rhodes, Coats & Bennett performed a patent search on the Invention Disclosure.
15. Between February 28, 1997 and May, 30, 1997, the law firm of Rhodes, Coats & Bennett, prepared a patent application on our Invention Disclosure.
16. On or about June 1, 1997, we received a first draft of a patent application on the Invention Disclosure from Mr. Terranova to review and make comments.
17. One June 30, 1997, Mr. Terranova sent our comments on the draft patent application to the law firm of Rhodes, Coats & Bennett to be incorporated into a subsequent draft.

18. On July 11, 1997, we received a second draft patent application for the Invention Disclosure to review, sign and date for filing at the U.S. Patent & Trademark Office.

19. A patent application on our Invention Disclosure was filed at the U.S. Patent & Trademark Office on July 17, 1997.

20. We hereby acknowledge that willful false statements and the like are punishable by fine or imprisonment, or both (18 U.S.C. § 1001), and may jeopardize the validity of the application or any patent issuing thereon. All statements made herein are true and made on information and belief are believed to be true.

Russell D. Leatherman

Date

William C. Royal, Jr.

Date

Steve Terranova

From: Steve Terranova [sterranova@withrowterranova.com]
Sent: Thursday, February 20, 2003 2:15 PM
To: bill.royal@gilbarco.com
Subject: Declaration for divisional patent off of main internet browser patent (2400-505)



Rule 131

Declaration to Swear

Dear Bill,

Would you please review and signed the attached declaration and fax back to me as soon as you can. You have read the invention disclosure related to this case several times in the past for preparation of declarations, so I have not attached it here. Please let me know if you need it again to review and/or need any further information. The dates about drafts of patent applications, etc. are from letters in our file.

Thanks,

Steve Terranova
Withrow & Terranova, PLLC
201 Shannon Oaks Circle, Suite 200
Cary, NC 27511
Phone: 919.654.4520
Fax: 919.654.4521
Web: www.withrowterranova.com

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EXHIBIT 2

Steve Terranova

From: Steve Terranova [sterranova@withrowterranova.com]
Sent: Monday, March 17, 2003 1:58 PM
To: Dean Leatherman
Subject: RE: Declaration for divisional patent off of main internet browser patent (2400-505)

Dear Dean,

I was just checking to see if you had been able to sign and return the previous declaration.

Thanks,

Steve Terranova
Withrow & Terranova, PLLC
201 Shannon Oaks Circle, Suite 200
Cary, NC 27511
Phone: 919.654.4520
Fax: 919.654.4521
Web: www.withrowterranova.com

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